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HOUSE BILL 851

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Nick L. Salazar

AN ACT

RELATING TO FINANCE; AMENDING THE LAW ENFORCEMENT PROTECTION  
FUND ACT; CREATING THE LAW ENFORCEMENT COMMUNICATIONS ACCESS  
FUND; AUTHORIZING THE ISSUANCE OF BONDS BY THE NEW MEXICO  
FINANCE AUTHORITY; MAKING AN APPROPRIATION; DECLARING AN  
EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 29-13-2 NMSA 1978 (being Laws 1983,  
Chapter 289, Section 2, as amended) is amended to read:

"29-13-2. PURPOSE OF ACT. --The purpose of the Law  
Enforcement Protection Fund Act is to provide for the  
equitable distribution of money to municipal police,  
university police, tribal police and county sheriff's  
departments for use in the maintenance and improvement of  
those departments and to the New Mexico finance authority and

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1 general services department in order to enhance the efficiency  
2 and effectiveness of law enforcement services. "

3 Section 2. Section 29-13-2.1 NMSA 1978 (being Laws 1993,  
4 Chapter 179, Section 4, as amended) is amended to read:

5 "29-13-2.1. DEFINITIONS. --As used in the Law Enforcement  
6 Protection Fund Act:

7 A. "department" means the general services  
8 department;

9 ~~[A.]~~ B. "division" means the local government  
10 division of the department of finance and administration;

11 ~~[B.]~~ C. "fund" means the law enforcement  
12 protection fund;

13 ~~[C.]~~ D. "governmental entity" means a  
14 municipality, university, tribe or pueblo or a county;

15 ~~[D.]~~ E. "tribal police department" means any  
16 tribal or pueblo police department that has entered into an  
17 agreement with the department of public safety pursuant to  
18 Section 29-1-11 NMSA 1978; and

19 ~~[E.]~~ F. "university" means a four-year post-  
20 secondary institution listed in Article 12, Section 11 of the  
21 constitution of New Mexico. "

22 Section 3. Section 29-13-3 NMSA 1978 (being Laws 1983,  
23 Chapter 289, Section 3, as amended) is amended to read:

24 "29-13-3. DISTRIBUTION OF CERTAIN INSURANCE DEPARTMENT  
25 COLLECTIONS--LAW ENFORCEMENT PROTECTION FUND CREATED. --There

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1 is created in the state treasury the "law enforcement  
2 protection fund" and the "law enforcement communications  
3 access fund". Ten percent of all money received for fees,  
4 licenses, penalties and taxes from life, general casualty and  
5 title insurance business pursuant to the New Mexico Insurance  
6 Code shall be paid daily to the state treasurer and by him  
7 credited to the law enforcement protection fund. On or before  
8 June 30 of each year, the state treasurer shall transfer to  
9 the [~~general~~] law enforcement communications access fund any  
10 balance in the law enforcement protection fund in excess of  
11 one hundred thousand dollars (\$100,000) that is not obligated  
12 for distribution pursuant to Section 29-13-4 NMSA 1978, and  
13 that is in excess of the amount certified by the division to  
14 be distributed from that fund pursuant to Section 29-13-6 NMSA  
15 1978. "

16 Section 4. Section 29-13-4 NMSA 1978 (being Laws 1993,  
17 Chapter 179, Section 6) is amended to read:

18 "29-13-4. DETERMINATION OF NEEDS AND RATE OF  
19 DISTRIBUTION. --

20 A. Annually on or before April 15, the division  
21 shall:

22 (1) consider and determine the relative needs  
23 as requested by municipal and university police and county  
24 sheriff's departments for money in the fund pursuant to the  
25 provisions of Subsection B of this section; [~~and~~]

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1 (2) calculate the amount of consideration due a  
2 tribal police department pursuant to the provisions of  
3 Paragraph (10) of Subsection C of Section 29-1-11 NMSA 1978;  
4 and

5 (3) determine, after consultation with the New  
6 Mexico finance authority, the amount needed to pay principal,  
7 interest and other expenses related to bonds issued by the  
8 finance authority for the benefit of the department and coming  
9 due or to be paid in the succeeding fiscal year.

10 B. The division shall determine the rate of  
11 distribution of money in the fund to each municipal and  
12 university police and county sheriff's department as follows:

13 (1) all municipal police and county sheriff's  
14 departments shall be rated by class pursuant to this paragraph  
15 in accordance with populations established by the most  
16 recently completed decennial census; provided that the  
17 population of any county shall not include the population of  
18 any municipality within that county that has a municipal  
19 police department. The rate of distribution to which a  
20 municipal police or county sheriff's department is entitled is  
21 the following:

<u>CLASS</u>	<u>POPULATION</u>	<u>AMOUNT</u>
1	0 to 20,000	\$17,000
2	20,001 to 160,000	30,000
3	160,001 to 1,280,000	40,000;

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1                   (2) university police departments shall be  
2 entitled to a rate of distribution of seventeen thousand  
3 dollars (\$17,000); and

4                   (3) municipal and university police and county  
5 sheriff's departments shall be entitled, unless allocations  
6 are adjusted pursuant to the provisions of Subsection C of  
7 this section, to three hundred dollars (\$300) for each police  
8 officer or sheriff's deputy employed full time by his  
9 department who has been certified by the New Mexico law  
10 enforcement academy as a police officer or has been authorized  
11 to act as a New Mexico peace officer pursuant to the  
12 provisions of Section 29-1-11 NMSA 1978.

13                   C. After distributions are determined in accordance  
14 with Paragraph (2) of Subsection A and Paragraphs (1) and (2)  
15 of Subsection B of this section, if the balance in the fund is  
16 insufficient to permit the total allocations provided by  
17 Paragraph (3) of Subsection B of this section, the division  
18 shall reduce that allocation to the maximum amount permitted  
19 by available money. "

20                   Section 5. Section 29-13-5 NMSA 1978 (being Laws 1983,  
21 Chapter 289, Section 5, as amended) is amended to read:

22                   "29-13-5. DETERMINATION OF NEEDS--REVIEW.--No later than  
23 May 1 of each year, the division shall notify in writing each  
24 affected municipal police, university police, tribal police,  
25 [~~and~~] county sheriff's department and the New Mexico finance

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1 authority of its determination of money to be distributed  
2 pursuant to the provisions of Section 29-13-4 NMSA 1978. Any  
3 affected department or the New Mexico finance authority may  
4 appeal that determination by filing a notice of appeal with  
5 the secretary of finance and administration no later than May  
6 15. If an appeal is filed, the secretary of finance and  
7 administration shall review the determination of the division  
8 in an ~~informal~~ and ~~summary~~ proceeding and shall certify the  
9 result of the appeal to the division no later than June 30,  
10 and the division shall adjust its determination accordingly.  
11 If no appeal is filed, the original determination of the  
12 division shall be final and binding and not subject to further  
13 review. "

14 Section 6. Section 29-13-6 NMSA 1978 (being Laws 1983,  
15 Chapter 289, Section 6, as amended) is amended to read:

16 "29-13-6. DISTRIBUTION OF LAW ENFORCEMENT PROTECTION  
17 FUND. --

18 A. Annually on or before July 31 and prior to any  
19 other distribution from the fund, the state treasurer shall  
20 distribute from the fund the amount certified by the division  
21 to be distributed to the New Mexico finance authority. Payment  
22 shall be made to the chief financial officer of the New Mexico  
23 finance authority.

24 ~~[A.]~~ B. Annually on or before July 31, the state  
25 treasurer shall distribute from the fund the amounts certified

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1 by the division after the required distribution to the New  
2 Mexico finance authority to be distributed to municipalities,  
3 universities and counties. Payments shall be made to the  
4 treasurer of the appropriate governmental entity.

5 ~~[B-]~~ C. The state treasurer is authorized to redirect  
6 a distribution to the New Mexico finance authority in an amount  
7 certified by the division, pursuant to an ordinance or a  
8 resolution passed by the municipality or county and a written  
9 agreement of the municipality or county and the New Mexico  
10 finance authority.

11 ~~[C-]~~ D. Annually on or before July 31 and after the  
12 required distribution to the New Mexico finance authority, the  
13 state treasurer shall distribute from the excess money  
14 remaining in the fund after distributions pursuant to  
15 Subsection A of this section are made, money certified by the  
16 division to be distributed to tribes and pueblos. Payment  
17 shall be made to the chief financial officer of the tribe or  
18 pueblo. If necessary, the fund may be decreased below the  
19 level of one hundred thousand dollars (\$100,000) to enable  
20 payment to the tribes and pueblos. If insufficient money  
21 remains in the fund to fully compensate the tribes and pueblos,  
22 a report shall be made to the New Mexico office of Indian  
23 affairs and to an appropriate interim committee of the  
24 legislature that reviews issues having impact on tribes and  
25 pueblos in New Mexico by September 1 of the year of the

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1 shortfall. "

2 Section 7. Section 29-13-7 NMSA 1978 (being Laws 1983,  
3 Chapter 289, Section 7, as amended) is amended to read:

4 "29-13-7. EXPENDITURE LIMITATION--CONTROL. --

5 A. Amounts distributed from the fund to a  
6 governmental entity shall be expended only for the following:

7 (1) the repair and purchase of law enforcement  
8 apparatus and equipment, including the financing and  
9 refinancing thereof, that meet minimum nationally recognized  
10 standards;

11 (2) expenses associated with advanced law  
12 enforcement planning and training;

13 (3) complying with match or contribution  
14 requirements for the receipt of federal funds relating to  
15 criminal justice programs; and

16 (4) no more than fifty percent of the  
17 replacement salaries of municipal and county law enforcement  
18 personnel of municipalities or counties rated as Class 1 in  
19 Paragraph (1) of Subsection B of Section 29-13-4 NMSA 1978  
20 participating in basic law enforcement training.

21 B. Amounts distributed from the fund to a  
22 governmental entity shall be expended only pursuant to approved  
23 budgets and upon duly executed vouchers approved as required by  
24 law.

25 C. Amounts distributed from the fund to the New

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1 Mexico finance authority may be expended for the payment of  
2 principal of, interest on and other expenses or obligations  
3 related to bonds issued for the department. "

4 Section 8. Section 29-13-8 NMSA 1978 (being Laws 1983,  
5 Chapter 289, Section 8, as amended) is amended to read:

6 "29-13-8. RULES AND REGULATIONS. --The division shall  
7 promulgate necessary rules and regulations to administer the  
8 provisions of the Law Enforcement Protection Fund Act governing  
9 distributions to governmental entities. "

10 Section 9. Section 29-13-9 NMSA 1978 (being Laws 1983,  
11 Chapter 289, Section 9, as amended) is amended to read:

12 "29-13-9. EXPENDITURES OF MONEY DISTRIBUTED FROM THE LAW  
13 ENFORCEMENT PROTECTION FUND--WRONGFUL EXPENDITURE. --

14 A. Amounts distributed from the fund to a  
15 governmental entity shall be expended only for the specific  
16 purposes for which they are distributed and shall not be  
17 distributed to a governmental entity for accumulation.

18 B. Any person who expends or directs or permits the  
19 expenditure of any money distributed from the fund for purposes  
20 other than those expressly authorized by the Law Enforcement  
21 Protection Fund Act shall be personally liable to the state for  
22 the amount of money wrongfully expended and interest and costs.  
23 An action to recover the amount of any wrongful expenditure may  
24 be commenced by the attorney general or the district attorney  
25 upon the filing with that officer of a verified statement

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1 describing the wrongful expenditure. "

2 Section 10. A new section of the Law Enforcement  
3 Protection Fund Act is enacted to read:

4 " [NEW MATERIAL] NEW MEXICO FINANCE AUTHORITY REVENUE  
5 BONDS-- PURPOSE--- APPROPRIATION. --

6 A. The New Mexico finance authority may issue and  
7 sell revenue bonds in compliance with the New Mexico Finance  
8 Authority Act in installments or at one time in an amount not  
9 exceeding seven million five hundred thousand dollars  
10 (\$7,500,000) for the purpose of financing the acquisition of  
11 real property for and the design, construction, acquisition,  
12 installation, furnishing and equipping of a digital microwave  
13 communications system by the department.

14 B. The New Mexico finance authority may issue and  
15 sell revenue bonds authorized by this section when the  
16 secretary of general services certifies the need for issuance  
17 of the bonds. The net proceeds from the sale of the bonds are  
18 appropriated to the department for the purposes described in  
19 Subsection A of this section.

20 C. The money distributed annually from the fund to  
21 the New Mexico finance authority shall be pledged irrevocably  
22 for the payment of the principal, interest and other expenses  
23 or obligations related to the bonds. All distributions from  
24 the fund to the New Mexico finance authority shall be deposited  
25 in a special bond fund or account of the authority.

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1           D. At the end of each fiscal year succeeding each  
2 annual distribution to the authority, any money remaining in  
3 the special bond fund or account, after all principal, interest  
4 and other expenses or obligations related to the bonds in that  
5 fiscal year are fully paid, shall be transferred to the state  
6 treasurer for deposit in the law enforcement communications  
7 access fund. Upon payment of all principal, interest and other  
8 expenses or obligations related to the bonds, the finance  
9 authority shall certify to the state treasurer that all  
10 obligations for the bonds issued pursuant to this section have  
11 been fully discharged and direct the state treasurer to cease  
12 distribution of money from the fund to the authority and to  
13 thereafter transfer such money to the law enforcement  
14 communications access fund.

15           E. Cash balances present in the law enforcement  
16 communications access fund shall be made available for  
17 appropriation. The law enforcement communications access fund  
18 shall be used to extend advanced digital communications to  
19 selected small or remote communities for law enforcement and  
20 public safety purposes. The state information technology  
21 management council shall recommend annually to the legislature  
22 those communities that have a critical need for advanced  
23 communication services for law enforcement and public safety  
24 purposes. These recommendations shall be based on requirements  
25 presented to the council by the law enforcement and public

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1 safety organizations of the affected communities, and by such  
2 other information that is made available to the council.  
3 Appropriations from this fund shall be made to the department  
4 for implementation of advanced digital communications access to  
5 community law enforcement organizations.

6 F. Any law authorizing the collection of money for,  
7 or the imposition or requirement of, fees, licenses, penalties  
8 and taxes from life, general casualty and title insurance  
9 business pursuant to the New Mexico Insurance Code, directing  
10 deposits into the fund or distribution of the money in the fund  
11 to the New Mexico finance authority shall not be amended,  
12 repealed or otherwise directly or indirectly modified so as to  
13 impair outstanding revenue bonds that may be secured by pledge  
14 of the distributions from the fund to the New Mexico finance  
15 authority, unless the revenue bonds have been discharged in  
16 full or provisions have been made for their full discharge."

17 Section 11. EMERGENCY.--It is necessary for the public  
18 peace, health and safety that this act take effect immediately.